

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

ALAINE KAY, et al.,

Plaintiffs,

vs.

Civil Action 2:09-CV-351
Judge Smith
Magistrate Judge King

AMERICAN NATIONAL RED CROSS,
et al.,

Defendants.

OPINION AND ORDER

On October 1, 2010, the Court granted the motion of the defendant American National Red Cross to compel and awarded to this defendant its reasonable expenses, including attorney's fees, associated with the filing of the motion. *Opinion and Order*, Doc. No. 47. This defendant was directed to provide to plaintiffs an itemized statement of its expenses; the Court specified that "[i]f any party wishes a hearing on the amount of the requested award, that party shall make written request for a hearing within fourteen (14) days." *Id.*, at 8. Plaintiffs requested a hearing. *Plaintiffs' Request for Hearing*, Doc. No. 48. Defendant thereafter filed a motion for an award of attorney's fees in the amount of \$2,335.00. *Defendant's Motion to Approve Amount of Sanctions Authorized by This Court's Opinion and Order of October 1, 2010*, Doc. No. 52. A hearing was held on October 25, 2010.

Defendant itemizes a total of 14.5 hours spent by two attorneys in connection with the motion to compel: the trial attorney itemized 2 hours, billed at the rate of \$230.00 per hour; an associate

in the same law firm itemized 12.5 hours, billed at the rate of \$150.00 per hour. *Affidavit of Joyce D. Edelman* and exhibit attached thereto, attached to Doc. No. 52. Speaking through their counsel, plaintiffs do not object to the hourly rates charged by the two attorneys but characterize the number of hours billed as excessive, duplicative and unreasonable. Counsel suggests that no more than two hours, charged at the associate's rate, was reasonably necessary to the preparation of the motion to compel.

The motion to compel, and supporting memorandum, comprise ten (10) pages; the motion is supported by 28 pages of exhibits. *Defendant American National Red Cross's Motion to Compel Discovery and for Sanctions*, Doc. No. 28. The motion is supported by legal research, excerpts of discovery and correspondence with plaintiffs' counsel. The hours itemized do not include time spent attempting to resolve the discovery dispute without the need for resolution by the Court. *Affidavit of Joyce Edelman*, ¶ 5. The client has paid the entire amount sought. *Id.*, ¶7.

This Court concludes that the hours itemized and the amounts sought are reasonable. The motion and supporting materials are comprehensive and were clearly intended to address any challenge to the motion that might have been raised by plaintiffs. The fact that plaintiffs thereafter chose not to oppose the motion does not render unreasonable the hours spent in the preparation of the motion. Moreover, the fact that the bulk of the hours were spent by a young, less-experienced associate whose time is billed at a much lower rate, and merely reviewed by the more senior trial attorney whose time is billed at a much higher rate, further supports the conclusion that the amount requested is not unreasonable.

Accordingly, the *Motion to Approve Amount of Sanctions Authorized by This Court's Opinion and Order of October 1, 2010*, Doc. No. 52, is **GRANTED**.

Defendant American National Red Cross is **AWARDED** an attorney's fee in the amount of \$2,335.00.

October 25, 2010

s/Norah McCann King
Norah M^cCann King
United States Magistrate Judge